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MAILED

DEC 13 2010

In re Application of : **OFFICE OF PETITIONS**
Mordaunt et al. :
Application No. 10/531,691 : ON APPLICATION FOR
Filed: April 23, 2007 : PATENT TERM ADJUSTMENT
Attorney Docket No. 35678- :
609N01US :
Title: SYSTEM, METHOD, AND :
APPARATUS TO PROVIDE LASER :
BEAMS OF TWO OR MORE :
WAVELENGTHS :
:

This decision is in response to the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. §1.705(B)," filed April 26, 2010. Applicants contend the patent term adjustment as of the mailing of the Notice of Allowance is 64 days.

The request for correction of the initial determination of patent term adjustment (PTA) is Granted.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office has updated the PAIR screen to reflect the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is sixty-four (64) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 26, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the Patent term adjustment to date is one hundred twenty-six (126) days.

A review of the application history reveals that Applicants should have been assessed an additional delay of 62 days.

37 CFR §1.704(b) provides:

an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

A Notice to File Missing Parts was mailed on September 22, 2005. The Notice inter alia, required applicants submit a declaration in compliance with 37 CFR 1.497(a) and (b). Applicants submitted a reply to the Notice on February 22, 2006. Pursuant to 37 CFR 1.704(b) the application is subject to 62-day reduction for applicants' delay for the period beginning on December 23, 2005 and ending on February 22, 2006.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is sixty-four (64) days (246) days of PTO delay and (182) days of Applicants delay.

As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of attorney Liberto appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, attorney Liberto desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.



Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



Patent Term Adjustments


[PTA/PTE Information](#) [Patent Term Adjustment](#) [Patent Term Extension](#)

 Application Number*: 10531691 [Search](#) [Explanation of PTA Calculation](#) [Explanation of PTE Calculation](#)
PTA Calculations for Application: 10531691

Application Filing Date 04/23/2007		Overlapping Days Between (A and B) or (A and C) 0
Issue Date of Patent:		Non-Overlapping USPTO Delays: 246
A Delays	B Delays	PTO Manual Adjustment: -62
246	0	Applicant Delay (APPL) 120
0	0	Total PTA (days) 64

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
72	12/13/2010		P028	Adjustment of PTA Calculation by PTO	0	0	62
64	01/26/2010		MN/ =	Mail Notice of Allowance	0	0	
62	01/22/2010		N/ =	Notice of Allowance Data Verification Completed	0	0	
61	01/22/2010		DOCK	Case Docketed to Examiner in GAU	0	0	
60	01/22/2010		DVER	Document Verification	0	0	
59	01/21/2010		CNTA	Notice of Allowability	0	0	
55	01/16/2010		FWDX	Date Forwarded to Examiner	0	0	
54	01/15/2010		A.NE	Amendment after Final Rejection	0	0	
53	11/19/2009		FLRCPT.C	Filing Receipt - Corrected	0	0	
52	11/09/2009		MCTFR	Mail Final Rejection (PTOL - 326)	0	0	
51	11/06/2009		CTFR	Final Rejection	0	0	
47	09/24/2009		FWDX	Data Forwarded to Examiner	0	0	
50	09/21/2009		IDSC	Information Disclosure Statement considered	0	0	
49	09/21/2009		RCAP	Reference capture on IDS	0	0	
48	09/21/2009	07/15/2009	H844	Information Disclosure Statement (IDS) Filed	0	46	
44	09/21/2009		WIDS	Information Disclosure Statement (IDS) Filed	0	0	
46	07/15/2009	05/24/2009	A...	Response after Non-Final Action	32	43	
45	07/15/2009		XT/G	Request for Extension of Time - Granted	0	0	
43	02/26/2009	06/23/2008	MCTNF	Mail Non-Final Rejection	246	20	
42	02/19/2009		CTNF	Non-Final Rejection	0	0	
40	02/11/2009		DOCK	Case Docketed to Examiner in GAU	0	0	
39	01/26/2009		CAD	Correspondence Address Change	0	0	
63	01/22/2009		IREV	Issue Revision Completed	0	0	
38	12/01/2008		NPEN	Mail Pre-Exam Notice	0	0	
37	03/03/2008		DOCK	Case Docketed to Examiner in GAU	0	0	
36	02/28/2008		DOCK	Case Docketed to Examiner in GAU	0	0	
35	01/02/2008		TSSCDMP	IFW TSS Processing by Tech Center Complete	0	0	
31	10/04/2007		PG-TSSUE	PG-Pub Issue Notification	0	0	
29	07/12/2007		OIPE	Application Dispatched from OIPE	0	0	
27	06/26/2007		PGPC	Sent to Classification Contractor	0	0	
26	06/26/2007		N903	Notice of OO/EO Acceptance Nailed	0	0	
19	06/20/2007		MPTGR	Mail-Petition Decision - Granted	0	0	
17	06/20/2007		MPTGR	Mail-Petition Decision - Granted	0	0	
28	04/23/2007		371COMP	371 Completion Date	0	0	
25	04/23/2007		ADDLFEES	Additional Application Filing Fees	0	0	
20	04/23/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0	0	
18	04/23/2007		PET.	Petition Entered	0	0	
16	04/23/2007		PET.	Petition Entered	0	0	

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